

These are a few of my Favorite Things

Musings from 50 years at the Bar

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Are trial lawyers born or made?



Tools to improve your trial skills

Seminars

Trials

Contested Post Conviction Relief Hearing

Watching Oral Arguments

State v. Ledford September 27, 2017

Read the indictment

Joining Organizations

Reading

HU
C2-2
F583
L66
1960

*NOTHING
BUT
THE TRUTH*

BY
James Horace Wood
AS TOLD TO
John M. Ross

1960

DOUGLASS W. GARDNER, INC., GARDEN CITY, N.Y.

FIRST TIME IN PAPERBACK



GUILTY UNTIL PROVEN INNOCENT

"Gripping."
—*The Wall*
Street Journal

DONALD S. CONNERY

With new introduction and afterword

#1 NEW YORK TIMES BESTSELLER

JOHN GRISHAM

"Grisham has written both an American tragedy and his strongest legal thriller yet, all the more gripping because it happens to be true."
—*Entertainment Weekly*

NETFLIX

A NETFLIX ORIGINAL
DOCUMENTARY
SERIES

THE INNOCENT MAN

MURDER AND INJUSTICE IN A SMALL TOWN

THE DREAMS OF ADA

"A RIVETING TRUE STORY OF A BRUTAL MURDER IN A SMALL TOWN
AND THE TRAGIC ERRORS MADE IN THE PURSUIT OF JUSTICE."

— JOHN GRISHAM

ROBERT MAYER

WITH A NEW AFTERWORD BY THE AUTHOR

A Town's Terror,
A Prosecutor's Power,
A Betrayal of Innocence

MEAN JUSTICE

EDWARD
HUMES

WINNER OF THE PULITZER PRIZE

The book cover features a sepia-toned, halftone-style portrait of a man with a mustache, likely a historical figure, in the background. The title 'CONTEMPT OF COURT' is prominently displayed in large, bold, black capital letters. Below the title is a small, dark, abstract illustration. The subtitle 'The Turn-of-the-Century LYNCHING THAT LAUNCHED A HUNDRED YEARS OF FEDERALISM' is written in a smaller, black, sans-serif font. The authors' names, 'MARK CURRIDEN AND LEROY PHILLIPS, JR.', are listed below the subtitle, followed by 'WITH AN UPDATED EPILOGUE'. At the bottom of the cover, there is a quote from Randall Kennedy of Harvard Law School.

CONTEMPT OF COURT

The Turn-of-the-Century
LYNCHING
THAT LAUNCHED A HUNDRED
YEARS OF FEDERALISM

MARK CURRIDEN AND
LEROY PHILLIPS, JR.
WITH AN UPDATED EPILOGUE

"Fast-paced, richly detailed, well-written and deeply moving. . . . [A] book that belongs on the same shelf with Richard Luger's *Simple Justice* and Anthony Lewis' *Gideon's Trumpet*."
—RANDALL KENNEDY, HARVARD LAW SCHOOL

THIRD EDITION

Cross- Examination: Science and Techniques



Larry Polzner • Roger J. Dodd

THE JOURNAL OF CRIMINAL LAW AND CRIMINOLOGY

CRIMINAL LAW

*MOTUS ANIMI IN MENTE INSANA: AN EMOTION-ORIENTED
PARADIGM OF LEGAL INSANITY INFORMED
BY THE NEUROSCIENCE OF MORAL JUDGMENTS
AND DECISION-MAKING*
Federica Coppola

COMMENTS

COERCED FATE: HOW NEGOTIATION MODELS
LEAD TO FALSE CONFESSIONS
Kiera Janzen

A GUIDING HAND OR A SLAP ON THE WRIST: CAN DRUG
COURTS BE THE SOLUTION TO MATERNAL OPIOID USE?
Cara O'Connor

NORTHWESTERN UNIVERSITY PRITZKER SCHOOL OF LAW
VOLUME 109 / NUMBER 1 / WINTER 2019

Vol. 45 No. 2 Winter 2019

Litigation

AMERICAN BAR ASSOCIATION THE JOURNAL OF THE SECTION OF LITIGATION



Persuasion



Preliminary Injunctions

Rethinking Credibility and the Burden of Truth

Attorney-Client Privilege

Willie Mays





Two Biggest Mistakes a Lawyer Can Make

Believing everything a client tells them

Not believing everything a client tells them

Two Biggest Mistakes a Lawyer Can Make

Not believing everything a client tells them

Believing everything a client tells them

Listen to your client

People talking without speaking

People hearing without listening

Simon And Garfunkel - The Sound Of Silence

The Rules of Evidence

Read them

Rule 608 b: “ [Specific instances of the conduct of a witness] may, however, in the discretion of the court if probative of truthfulness or untruthfulness”

Rule 806: When a hearsay statement . . . Has been admitted in evidence, the credibility of the declarant may be attacked . . . By any evidence which would be admissible for those purposes if the declarant had testified as a witness.

Educating the Public

a/k/a Tainting the Jury Pool

Cross Examination

Why?

Patience, Patience , Patience

Overview witnesses

Q. Based on your criminal investigation of this case, your review of the documents, once you completed your investigation, what did you do?

A. I signed the warrants.

Q. On who?

A. On both of - - Mary and Jane.

Q. Mary. Full name please.

A. Mary Smith and Jane - - Jane Jones.

Q. What did you charge them with?

A. I charged both of them with exploitation of a vulnerable adult.

Q. Okay. And that is the Defendant here today?

A. Yes, ma'am.

1 Q On March the 31st, 2014, did you and other agents
2 interview Mr. Lisco Jeffcoat?

3 A Yes, he was interviewed.

4 Q After you interviewed Mr. Jeffcoat, what did you and
5 other agents do to further the investigation, say, from
6 March the 31st, 2014, through April and May? What was
7 going on in the investigation during that period?

8 A Well, at the same time we had also been looking at
9 Walter Lee as a -- also known as Reno as a target of
10 investigation in the Anderson area. And we learned from
11 Jeffcoat --

12 MR. WISE: Objection, Your Honor, that
13 definitely would be hearsay, what they learned.

14 MR. MOORMAN: Your Honor, I'd be happy to ask --
15 I'd rephrase or ask another question. That's fine.

16 THE COURT: Thank you.

17 Q Special Agent Rajae, you testified about different
18 targets of the investigation. You testified about
19 Mr. Scott, about Mr. Thomas, about Mr. Lee. Describe for
20 the jury in general terms during this investigation how
21 the focus changed among different targets, whether it be
22 Mr. Scott, Mr. Lee, Mr. Thomas.

23 MR. WISE: Your Honor, how the investigation
24 focus changed is a conclusion that I don't see how that's
25 admissible.

17 Q Special Agent Rajae, you testified about different
18 targets of the investigation. You testified about
19 Mr. Scott, about Mr. Thomas, about Mr. Lee. Describe for
20 the jury in general terms during this investigation how
21 the focus changed among different targets, whether it be
22 Mr. Scott, Mr. Lee, Mr. Thomas.

23 MR. WISE: Your Honor, how the investigation
24 focus changed is a conclusion that I don't see how that's
25 admissible.

1 the 18th, 2014, what did you do and other agents do to
2 further the investigation in light of that information?

3 A There was a lot of things we did. We started
4 focusing more on understanding Eric Scott, looking into
5 his finances, trying to see how he was spending his time,
6 trying to see who his associates might be, trying to
7 gather any information we could through the probation
8 office about him, so just trying to develop the case, in
9 general, not only in regard to him but about the group of
10 people that he may have been involved with.

11 Q What effect, if any, did the fact that Yaphet Thomas
12 was with Mr. Scott in the traffic stop did that have on
13 the investigation?

14 A It was significant because we knew Mr. Thomas to be
15 a --

16 MR. WISE: Objection, Your Honor, that would --
17 that would be calling for hearsay now as to what he,
18 quote, knew about Mr. Thomas.

19 THE COURT: I think you need to lay some
20 foundation for his knowledge. So I'll sustain the
21 objection.

22 MR. MOORMAN: I'll ask -- I'll rephrase.

23 Q Special Agent Rajae. Prior to the February 18,
24 2014, traffic stop, was Mr. Yaphet Thomas a main focus of
25 the investigation?

11 Q What effect, if any, did the fact that Yaphet Thomas
12 was with Mr. Scott in the traffic stop did that have on
13 the investigation?

14 A It was significant because we knew Mr. Thomas to be
15 a --

16 MR. WISE: Objection, Your Honor, that would --
17 that would be calling for hearsay now as to what he,
18 quote, knew about Mr. Thomas.

Rule 602 Lack of personal knowledge

Rule 801 Hearsay

1 haven't done this on purpose because I don't even want to
2 get close to this -- but even if I said, after you met
3 with Lisco Jeffcoat, what did you do? And let's say he
4 said we began to investigate Walter Lee more thoroughly.
5 And then I asked him, well, how did you begin to
6 investigate Walter Lee more thoroughly, he could say
7 because Lisco Jeffcoat said blah, blah, blah, blah, blah,
8 because it wouldn't be offered for the truth of the matter
9 asserted. It would be offered to show why he investigated
10 Mr. Jeffcoat.

11 MR. WISE: If the State would stipulate that
12 what the person said was not the truth, they can admit it
13 all day long.

14 MR. MOORMAN: Your Honor, I don't need to
15 stipulate --

16 MR. WISE: Or the Government.

17 MR. MOORMAN: I don't need to stipulate that
18 he --

19 MR. WISE: Well, it is being admitted for the
20 truth --

21 THE COURT: Well --

22 MR. WISE: -- that's the point.

23 THE COURT: Well, wait a minute. I don't think
24 the Government has asked this witness to say what Mr. --

25 MR. MOORMAN: Lisco Jeffcoat.

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2 get close to this -- but even if I said, after you met
3 with Lisco Jeffcoat, what did you do? And let's say he
4 said we began to investigate Walter Lee more thoroughly.
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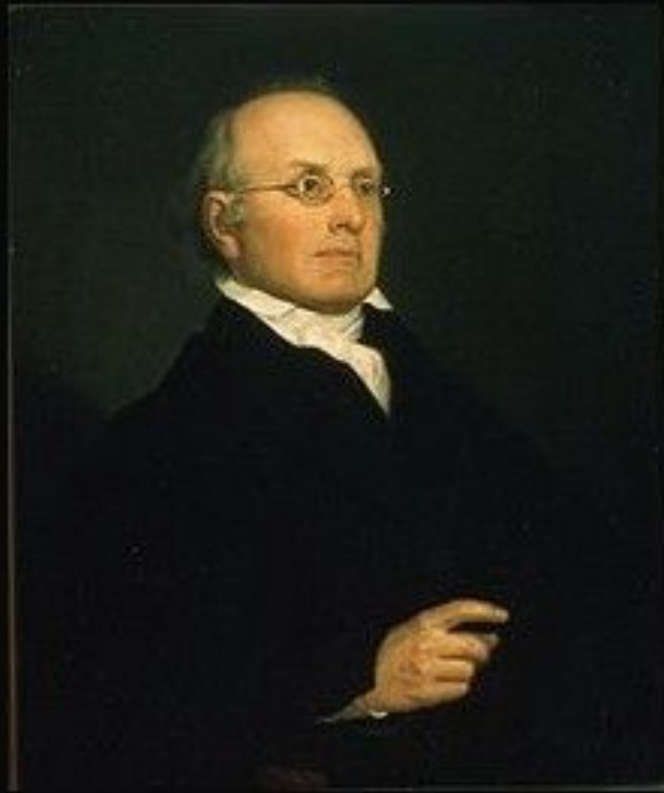
9 **MR. WISE:** Well, it is being admitted for the
0 truth --

Closing Argument

Stanislavski in the Courtroom

Take a Break





[Of the law:] It is a jealous mistress, and requires a long and constant courtship. It is not to be won by trifling favors, but by lavish homage.

(Joseph Story)





Are trial lawyers born or made?

Do you want to be a trial lawyer?

Are you willing to do what it takes to be a trial lawyer?

